Quid Novi

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ETHICAL CHOICES AND A MOTHER'S WOMB

By René Brewer, LLB I

I am writing in response to Teresa Regan's article printed in the Quid Novi of September 23 in which Regan expresses her outrage at the Supreme Court of Canada's decision in R. v Lemay and Sullivan (1991). The case involved two midwives whose conviction of criminal negligence in the death of an unborn baby was overturned on appeal. The Supreme Court agreed with the British Columbia Court of Appeal's ruling which was based on the fact that, under Canadian law, a fetus is not a person until it is separated from the mother. In her article, Regan advances arguments in favor of changing this position with respect to fetal rights. What follows is an analysis of these arguments in favor of the continued restraint on the part of the courts regarding this issue.

Regan sets about stating her case by first appealing to scientific authority. Her assertion that a fetus is a human life is not new, nor is it particularly controversial (although she presents it as if it were), but it does set the groundwork for her principal claim: that, as a living being, a fetus is entitled to the full protection of the law. This would be reasonable if the purpose of the law were to regulate the interactions between living beings of human origin. But Regan herself states that this is not the case, that the law purports to protect «individuals from each other» by considering «the relations between individuals». Ironically, this definition is in full agreement with and was in fact the basis for the Supreme Court's decision which Regan claims to have found so disturbing. Law-makers and adjudicators are disinclined to interfere in the unique relationship between a pregnant woman and a fetus precisely because it s a relationship that by its very nature is not «between individuals». It is in fact the attachment of the fetus to the mother, the fetus' total physical dependency, which distinguishes the mother-fetus relastionship from interactions between individuals and which justifies its special treatment.

Remarkably, Regan persists with this terminology, using other words which imply separatenees to describe instances where the law intervenes, inviting the reader to infer that, since the law protects «some*one*» from being killed and the interest of «another», it should extend its influence into the womb. Surely Regan knows that the courts do not have now,

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THINKING ABOUT WORDS

By Andrew Deere, LLB III

Jay Sinha has been thinking about «penultimate», a good word, one full of meaning but quite useless. I once checked it up in the Concise Oxford and learned that it meant «one before the last» and that it was derived from a combination of the Latin «paene», «almost» and «ultimus», «last».

Now if Justinian had wanted to say «almost the last» he would have said «paene ultimus», but when a certain segment of our society has decided that when they want to say «second to last» they won't use the ordinary words like everyone else, they made up their own word, using two words from another language, which the average man never studied. The word «penultimate» is then a snob word — the whole point of using it is to exclude others from understanding what you're saying. People like myself,

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IN THIS QUID CANS CE QUID

ANNOUNCEMENTS/ANNNONCES

WOMEN & THE LAW - Women against violence/Femmes contre la violence is pleased to present Christine Longpré, lawyer from the Groupe d'Aide et d'Information sur le Harcèlement Sexuel au travail. She will be speaking on the problems of sexual harassment in the workplace, on Wednesday, Nov. 6th at 12h00 noon, in room 201. Elle parlera en français. Vous êtes tous les bienvenus!

LOCKERS - Lockers were assigned to all Faculty of Law undergraduate students in September. To date, many lockers remain empty while other students requesting lockers are being turned away. You are requested, therefore, to claim your assigned locker as soon as possible. If you do not need yours, please notify the SAO so we can reassign it. Thanks for your cooperation.

LAW & MEDECINE - Legal Issues in Medical Practice Seventh Lecture: «The doctor and prescription drugs. AIDS». On Wednesday, Nov. 6th from 19h30 to 21h30 in the Moot Court.

LE PRIX PAJLO - Le Programme national de l'administration de la justice dans les deux langues officielles (PAJLO) oeuvre depuis maintenant dix ans à la promotion et à l'utilisation des deux langues officielles du Canada dans le domaine du droit. Pour atteindre cet objectif, le PAJLO et ses organismes membres ou participants ont uni leurs

ANNOUNCEMENTS/ANNNONCESANNOUNCEMENTS/ANNNONCESefforts pour que, de plus en plus, la common law soit accessible en langue française et le droit civil en langue anglaise. Voulant faire partager son idéal aux futurs juristes et les encourager à profiter de la richesse que représente le caractère bijuridique et bilingue du pays, le PAJLO, en coopération avec l'Association du Barreau canadien, offre à compter de l'année académique 1991-92 deux prix de $800. L'un sera offert à la meilleure dissertation de common law en français et l'autre à la meilleure dissertation de droit civil en anglais. For more information, contact Associate Dean Stephen Toope.

CADED - C.A.D.E.D. is submitting a report on «l'accès à la justice par rapport à la formation». If anyone has any ideas concerning the legal education in Québec (i.e. is it good, is it too theoretical, is it too practical...), they should submit them to Nathalie Goldin. Please write your thoughts on paper and put them in the VP-Civil box in the LSA office no later than November 9th, 1991.

LSA TEACHING AWARDS - Applications are still available to nominate your favourite professor for the teaching excellence award. Forms are available in SAO and due Nov. 9, 1991, for this semester's nominations. More info? Ask Leora Joseph, VP-Common at 484-2558.

COIN DES SPORTS CORNER - Compulsory meeting for everyone going or considering going to the Law Games on Thursday, Nov. 7th at 4h00 p.m. in the Moot Court. Bring your cheque books!! ($40 to go; $30 extra if you are taking the bus). Intramurals: With the women's flag football heartbreaking, down to the wire 40-0 playoff loss to the engineer sasquatches, we have winter sports and Law Games to look forward to. Get your broomball shoes ready.

QUOTE OF THE WEEK:

Says Prof. Casey early one Friday morning in Corporate Finance when responding to a student's answer regarding a merger/amalgamation problem:

«...Yes, but you're always going to have that other shareholder out there... you're always going to have that little flea behind your ear!».

Charter of Rights or Wrongs?

by Kevin MacNeill, LLB II

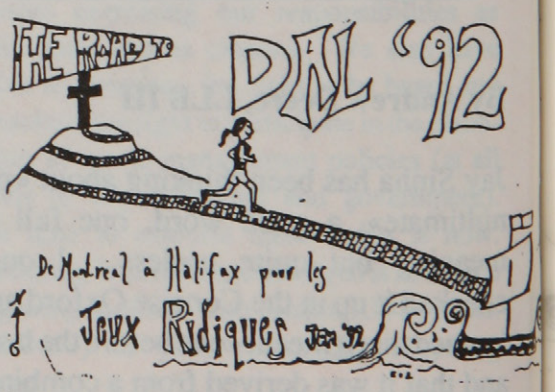
The importance of the Canadian Charter of Rights and Freedoms to the political and legal process cannot be understated. Today, hardly a week goes by without major press coverage of some Charter issue.

What impact will a judicial reading of a «distinct society» have upon Canadian politics? Would the entrenchment of property rights spell disaster for advocates of progressive social change? Could a «social Charter», such as that advocated by the NDP, really offer help to the poor and minorities in Canada?

Lawyers for Social Responsibility think that the issues surrounding judicial review should be thoroughly debated and reflected upon. To encourage such debate, we have invited Michael Mandel, professor of law at Osgoode Hall, to come and offer his views on the Charter and judicial review of the political process.

Professor Mandel is the author of several articles and a well-received book that criticizes the Charter. We should be cautious of an uncritical acceptance of the Charter, he says, pointing to several courtroom setbacks for the women's movement, Native rights and organized labour. Professor Mandel argues that the way forward for progressive social change is outside the courtroom in the realm of democratic politics.

Agree or disagree, we invite you to come hear Professor Mandel speak in room 201 of the Faculty on Wednesday Nov. 6th, 1991, at noon. Discussions will follow the talk and refreshments will be served.



InInvitation to Participate in a New Competitive Moot

by Marvin Shahin

Although the competitive moot selection has only recently been finalized some new information has come to my attention for all those «closet litigators» interested in putting their writing and pleading skills to the test. The Toronto firm of Osler Hoskin & Harcourt has just completed the details for the first annual WILSON MOOT in honour of Madame Justice Bertha Wilson.

The Wilson Moot is to have a broad field of inquiry: the promotion of justice for the traditionally disempowered. This year's subject matter has not yet been finalized but is most likely to focus upon a women's issue. We will receive the problem in late November and be required to submit factums in January. Pleadings will be held in late February or early March at the Federal Court House in Toronto.

Students selected to compete in the Wilson Moot will have to seek the approval of the Associate Dean Stevens to receive three credits. Our current policy on external moots dictates that only the registration fee will be assumed by the Faculty. Hence, students will be required to obtain financing of their participation themselves and will be required to obtain the agreement of a member of the Faculty to act as their academic supervisor.

If you are interested in participating in the Wilson Moot please contact me immediately. If four candidates do not approach me by mid-November, I will be forced to decline the invitation. I can be reached most afternoons at extension 6894 or you may leave a note in my mailbox (HANIGSBERG/SHAHIN).

A Day in the Life of Nathalie Goldin, VP-Civil

by Nathalie Goldin, BCL III

The following will not be an autobiographical report... lucky for you! Instead, I shall focus on one particular day, October 20th 1991.

First, let me give you a little background. As VP-Civil, I represent McGill law students on C.A.D.E.D. (la Confédération des associations des étudiants en droit civil). Part of C.A.D.E.D.'s mandate is to try to regulate the «recruitment» process in Québec. Specifically, C.A.D.E.D. has been trying to regulate the time of year during which the hiring process takes place in Québec, and the number of years a student must have completed in law school before being able to apply for a stage in a Québec law firm. At present, students applying to Québec law firms do not have to have completed any semesters at law school, and they can be interviewed and offered jobs at any time of year. All in all, the hiring process is quite disadvantageous for such law students.

C.A.D.E.D. has been working at regulating this system for 6 to 7 years. Every year, the suggested proposals have been rejected by many of the law firms. Finally, on October 20th, C.A.D.E.D. and the Canadian Bar Association agreed to limit the hiring process to a few weeks during the year and to negotiate in the future as to other possible changes in the system. This is the first time that any such «formal agreement» has been made.

Where does that leave us? C.A.D.E.D. will now negotiate with the Canadian Bar Association has to the exact details of the agreement (the specific time of year, etc...) and will begin working at further regulation of the hiring system. Furthermore, C.A.D.E.D. will also be working with «le Jeune Barreau de Montréal» in the hope of accelerating the pace of the reform of Québec's recruitment process. Let us keep our fingers crossed!!!

FILM FESTIVAL FUN

By Andreas Sautter, LLB II

Anyone who has ever participated in a film festival must surely have had the anguish of selecting the very few screenings that time and money permit the average movie fan to see. There also lurks at every theatre entrance the perennial bane of filmgoers: the «sold-out» sign. How important it is then to make those precious few selections count, to arrive on time, having bought the tickets eons in advance (where possible). Timeliness is vital to preempt those extremists found at all film festivals, the all-film pass holders. These errant idlers have nothing better to do than watch movies all day long, and consistently thieve seats away from the respectable rest of us, who actually have responsibilities and cannot indulge in cinematic gluttony.

So here you are, esconced in your viewing seat, devoid of all «maïs éclaté». (The pure cinéphile is enraptured by the sheer art of the movie, he/she would not descend to the proletarian delights of popcorn). Blackness momentarily obscures your vision, and as the projector whirrs into action, you tingle with anticipation as you prepare to savour every moment of one of the few films you have been able to cram into your responsibility-laden schedule.

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nor will they ever have, the ability to confer physical separateness on a fetus. Under her own analysis of the goal of the law then, the decision of the court to refrain from conferring legal rights on a fetus until it is no longer attached to the mother, until it becomes an «individual», should have to be a valid one.

Still, it seems that Regan is advocating a change in the legal status of a fetus to that of a person, in spite of the fact that her choice of words would actually argue against such a position. She does not specify at what point in a pregnancy the rights of the fetus should become so compelling as to warrant its being considered a full person in the eyes of the law, but judging from her rhetoric, I imagine that she would support a unilateral ban on abortions, except perhaps in extreme cases. If this is so, what she is proposing is a revolutionary shift in the purpose of the law from being (in her own words) the protection of individuals to including the protection of all living things of human origin. She never explains satisfactorily why this should be so, but there are many reasons why it should not be, some of which I shall enumerate.

The notion of conferring the legal rights of a person on a fetus is problematic, since in creating and enforcing «fetal rights», the courts would, at least in some cases, be placing the interests of a woman at odds with the rights of a part of her own body. In this respect, J. Thompson's analogy of the person waking to find himself attached to a violin player is an apt one. If the analogy fails, (and all analogies attempting to approach the mother-fetus relationship must fail, given the unique nature of pregnancy), it is because Thompson describes a situation involving two «major» persons, with all the memories, relationships and histories that this implies. For this reason, a hypothetical discussion of competing rights of Siamese twins is also not helpful in shedding light on the debate over fetal rights, since it still involves the possibility of subordinating the rights of one person to those of her moral and legal equal. Is it justifiable to consider the fetus, with no history or aspirations, to be the moral equivalent of a person? By awarding rights to a fetus which could potentially supersede those of its mother, the courts would be granting it a legal status at least equal to, if not greater than, that of a woman. The result would be to place the woman in an adversarial relationship with the fetus, a being that can at best be described as a potential person.

But let us just imagine for a moment that the powers-that-be did decide that a fetus is morally equal to a person already born, and that, as such, its rights must be protected to the full extent of the law. The consequences of legislation to this effect would be far-reaching indeed, since the interests of the fetus could be protected only through its mother, and only through means that would necessarily restrict her freedom in ways no man or other woman's freedom could constitutionally be limited» (Ronald Dworkin, The Great Abortion Case) The impact this would have on criminal law is obvious: a person accused of intentionally causing the death of a pregnant woman could be indicted on two counts of the crime, even if the woman herself did not know she was pregnant; a person responsible for an accident which resulted in a pregnant woman miscarrying could be held liable for manslaughter; the common practice of discarding surplus embryos in the process of *in vitro* fertilization could be condemned as murder; and finally, of course, a woman could be held criminally liable for behavior during her pregnancy which may have resulted in the death of or damage to a fetus. The latter issue is of great concern to many women, who fear that such a legislation would lead to attempts to regulate the conduct of pregnant women, an approach which has been tried with limited success in the United States.

Finally, I would like to make some comments based on my initial, more visceral response to Regan's arguments. The debate over reproductive rights is, in the final analysis, inextricably intertwined with issues of class and race, as well as of gender. If Regan believes that restricting access to abortion will prevent women of the more privileged economic strata from having abortions, including sex selection abortions, she is mistaken. In fact, even if abortion were to be criminalized, women would still have them: some would just be more likely to die or to be permanently damaged as a result. History has taught us this lesson. For this reason alone, I see nothing compassionate in advocating a «serious (perhaps unjust) imposition on a woman's rights» in the form of anti-abortion legislation. Only when the suggestions mentioned by Regan at the end of her article are realized, i.e., «sensible sex education programs, effective child care systems, aid for teenage and single mothers and effective adoption agencies», not to mention the development of one hundred per cent safe and effective methods of contraception, will the need to resort to abortion decline. Only then can women talk about having real reproductive choices.

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who insist on obtaining an education, are forced to learn it, and now that I know it I might stick it on an exam.

None of this really bothers me. What does concern me is a greater danger and it doesn't involve those polysyllabic Latin or Norman-French words. It involves those little Anglo-Saxon words which we never look up in the dictionary, and which we are convinced we are all in agreement as to what they mean. Words like «free» and «man»

Apparently there was a heated debate last week down in Leacock on the topic of «gender-free language» (sort of like «number-free math») and its forced use in the classroom. One of the words identified as a problem was «man». Not «man» in its so called «primary» sense as meaning one of the two categories of homo sapiens, sapiens which can be distinguished by a cigar shaped appendage around the groin and higher testosterone levels. But in its «secondary» sense as being a general term for all humans including the aforementioned «men and their less violent mammary, glanded co-human beings: women.

Now, for some reason there is a segment in this society, especially in the feminist circles, but not exclusively confined thereto, who have identified the «secondary» sense of «man» as a large problem. Also identified are other noxious words like «mankind» and «he» and others. If I understand their argument (and I probably don't) the use of the word «man» is «exclusionary». «Men» have decided they will exclude all the contributions of «women» out of history and society and expropriate to themselves all the credit, power etc. and do so by saying «mankind developed...», lman has always believed...» If I understand what was going down in Leacock last week, the use of «man» (in the «secondary» sense) should not only be stopped, but be prohibited in all official university documents and even classroom discussion. (Presumably the only way to enforce such a prohibition is to make those using it subject to some kind of review, with presumably some disciplinary power). «Man», they say, is misleading. It is harmful. It is dangerous. Thus it should be forbidden to use it. In sum, the «gender-free language» fringe wants to ban a word.

Now I object to this on two grounds. First, their argument is just plain wrong. Secondly, who the hell are they anyway to tell me or anyone else what words mean, and which ones are acceptable and which ones, when used, are subject to administrative review.

Why are they wrong? Simple, «man» has always meant human being, a member (of whatever sex) of homo sapiens. That is how I have always understood the word. It also means a male member of such animal species, but that is a later and secondary meaning. I have always been able to understand which is meant; it goes with knowing how to read (present tense, not past). If others can't keep it straight, why should I bear to carry and not the animal) the burden of their ignorance. To verify that I am right I checked my trusty Oxford and found that the first lemma of «man» means «human being». So does the second and the third. It is only in the fourth meaning of «man» that any talk of maleness comes out. I also know my language's history and that in Anglo-Saxon, the word «were» meant <<man>> and «wife» «human being», «male human being» and «female human being» respectivley (cf. «werewolf» and «midwife»). That the last two words dropped out and «man» doubled for «both human being» and «male human being» is an interesting historical problem, but does not change the word's meaning.

To the foregoing some «gender-free language» advocates might respond (some have to me in any case) that it doesn't matter: «man» to them means «male» and that's all they worry about. Good, so the real argument is not then what words actually mean, but what they want words to mean. They hold themselves out as the final arbiters of meaning and usage. Behind all the grandiose talk, their position in the end is a rather Orwellian one concerning the control of language. We, they say, shall decide what the words will mean. We will tell you what is and is not acceptable. We, in effect, want to control your speech.

Well I guess its lucky for me that they are not yet in power, and that the Dictionary of Correct Usage and Meaning (Newspeak?) is not yet mandatory reading like the Cite Guide. But if and when they do get in power, let me know! I'd like to know whether «free» means you have to apply for an exit visa.

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Mine was a similar position last week as I made a last-minute dash to a screening at the Festival du Nouveau Cinema between commitments (I had promised my roommate I would take the garbage out that night). The film: Dr. Carl G. Jung by Jerome Hill or Lapis Philosophorum. One might have thought it would be an exposition of Jungian philosophy, or a visual biography. Ha! It was a depiction of Jung carving a Latin inscription into a cubed rock he found in a quarry. Get it? Lapis philosophorum translates as Philosopher's stone. Humour. Perhaps that was the idea. The filmmaker had conned all the pseudo-intellectuals into watching Carl Jung carve a stone.
The point is that mine was an experience every film festival goer also has: disappointment. But after a few festivals, you learn that this is part of the fun: finding out which films are good or bad before everyone else requires that you sit through a few duds. Maybe the Jung film had another effect on me: it forced me to be philosophical.

LLOYD'S LEXICON OF BUS PEOPLE

By Stephen Lloyd, BCL III

Feel that you have a pretty good handle on Security on Immoveables, yet you can't get rid of that nagging feeling of unease? Fully caught up in your photocopying of summaries, but still feel as if you can't cope? Your problem could be one that plagues many of us unfortunates: the insidious DWETS (Dealing With Everyday Trivialities Syndrome).

Somewhere, someone pompous probably said, «There's just no such thing as a manual to get through life». Why not? Why can't you get a copy of a summary that tells you whether to wash the colours in cold water (or is it whites on «permanent press»?), when it's just about time to get a haircut, and whether you should buy broomball shoes if you are not really sure that you like the sport?

The following is a tiny first step towards compiling that summary. «Lloyd's Lexicon of Bus People» is designed to guide the sufferer of DWETS through that part of life termed, appropriately enough, «taking the bus». There are a lot of people on that bus, and if this Lexicon of bus personalities can help in any way to organize them into watertight compartments, and thus make the trivialities of everyday life easier to deal with, then it will have served its purpose.

The compulsive burrower: Very dangerous. Will enter bus at front and decide that, no matter how densely packed the crowd is, she or he must heed the words of the driver and reach the back of the bus. Quickly identified by crazed stare and gnashing of teeth when she or he comes across grocery bags blocking passage. Not to be confused with:

The frantic exiter: Causes an inordinate ruckus fighting way to the door, often three or four stops before she or he is due to get off. Usually ignores back door of bus, preferring to scramble all the way back up to the front. Probably scarred by a bad childhood experience of being trapped behind a human wall until the Pointe-aux-Trembles terminus. Don't try to smile reassuringly - just get out of their way.

The «grey power» activist: Not to be confused with kindly elderly people who smile at anyone in a button-down. Due to a distorted sense of social justice, feel they have the right to butt in at the front of the line at the bus stop, then proceed to clog up the front of the bus, waiting for some fifty-five year old punk to give up her seat.

The seat hogger: Unfortunately, the decline of the old bench-seat style buses has meant the end of the fine art of subtle «space hogging», on the long seats at the back, through strategic placement of the knee relative to the support poles. Today's boors simply settle into one bucket seat on a crowded bus, then put their bag or other paraphenelia on the seat beside them. These are the same people who don't yield on sidewalks - sit right on their stuff whenever you get the chance.

The single seat snatcher: Will sit still beside other passengers in tense, suffering silence, until a free single seat appears. Will then pounce on that seat with fearsome athletic agility. Warning signs: uncanny ability to sit beside you in those chummy bucket seats without making the slightest physical contact.

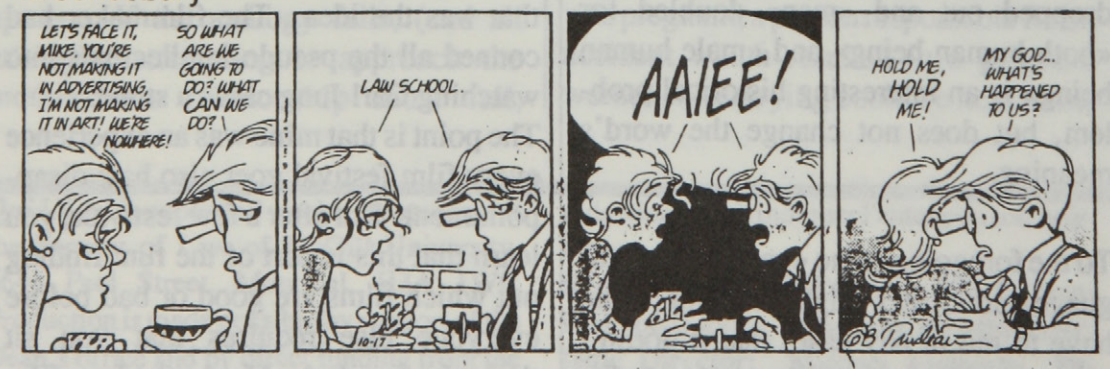
The absolute screwball: Tries to get dates on bus. Avoid eye contact at all costs.

The gyno-wannabee: Sensitive soul who anticipates impending birth by nine-and-a-half month pregnant woman and situates himself on the seat right in front of where she is barely standing, in order to best help with the delivery.

The observer: Weirdo who takes advantage of the fact that all other passengers politely avoid eye-contact, and gives them all a thorough going over, trying to spot people with facial tics. Refuses to read the «Just say no thank you to drugs» ads fifty times over. Is most unnerved by running into another observer, who looks back bemusedly. Usually sits on the long benches, for more variety in people to ogle. The author's friend falls into this category.

The transfer clutcher: Always a newcomer to the bus scene (witness the transfer, instead of the hip bus pass). Somehow feels that the transfer becomes invalid if it is tucked into a pocket, or else is really out of it and is waiting for the conductor to come by to punch it. Generally has trouble exiting the bus at the back - has to be told to push the gate or step on pressure step. Usually harmless.

Doonesbury



THIS WAS NO FANTASY

By Nile Kaya, NAT IV

A short while ago I, as most people, spent a weekend glued to my television set alerty watching the confirmation hearings of Judge Clarence Thomas.

It seemed obvious to me from the outset that one of the versions of the facts as described by Professor Hill and Judge Thomas had to be untrue. There seemed no middle ground to reconcile the two clearly contradictory versions. I was horrified when a third «alternative» theory was beginning to surface, whereby one might not have to call into question the veracity of either version. Professor Hill was not necessarily a liar, but rather a victim of her fantasies which had been pent up for nearly a decade. By characterizing her allegations as «fantasy» one avoids having to call an extremely credible witness with an impecable pre-hearing reputation a «liar». It is ironic that, if anything, people found her to be «too good». I wish that someone would explain that one to me! I would like to state emphatically at the outset that I am not in any way asserting that Professor Hill's version of the facts is true and that Judge Thomas' is untrue. There is no way of knowing this with any certainty. However, I am convinced that her allegations are not the result of fantasies. To refer to them as "mere fantasy" is evoking the stereotype of the fantasy-stricken woman who is not capable of discerning fact from fiction. As a woman, I find this both offensive and disempowering.

First, let me point out that the conclusion, that her version of events is the product of "mere fantasy", cannot be based upon current scientific understanding and the general consensus of the psychological community. In Professor Hill's case, we are talking about acute auditory and visual delusions. She is claiming to have seen and heard events which, according to Judge Thomas, never took place. Hence, she would have to be out of touch with reality and diagnosed with a psychosis-oriented disorder. But amazingly enough, Professor Hill appears, in all other areas of her life, to be an obviously sane and rational person. There was no evidence before the committee of any other incidents where Professor Hill suffered from such serious delusions. I personally know of no psychological disorder where the individual involved suffers only from an isolated incident of severe auditory and visual delusion. If anyone is aware of such a diagnosis, would you please inform me. It, however, was clear to me from watching the proceedings that it would not be reasonable to diagnose Professor Hill as being in a state of existence that is generally delusional.

It is highly unlikely if not virtually impossible that Professor Hill was reporting a fantasy. I am, however, of the opinion that the diagnosis of fantasy is fraught with androcentric bias, which in turn reinforces the societal subjugation of women. Historically, it is a diagnosis invented by men to label a certain population of women whose reported experiences did not reflect positively on males. In 1905, Sigmund Freud was of the opinion that scenes of seduction (childhood sexual abuse) which his patients, who were primarily women, reported to him "had never (really) taken place," but rather that "they were only fantasies which they made up."

The women's experiences were either denied and ascribed to their perverted imaginations or the women themselves were blamed as being instigators of the acts. However, today, 86 years later, we know that there is a third alternative explanation that accurately reflects the reports of these women. As unbelievable as it may sound, they were speaking the truth!

Historically, when children reported that they were being sexually abused by men who were in positions of power over them they were thought to be victims of fantasy; today when women report that they were sexually harassed by men in positions of power over them, they are once again considered to victims of fantasies. By attributing the reports of these women to fantasies, women's experiences are once again being invalidated. This is a clear example of injustice against women. It is one thing to think that Professor Hill is lying, on the basis of evidence presented before the Senate Committee, and quite another to say that she is a victim of her fantasies.

When is society going to stop delegitimizing women's experiences through the process of invalidation. When is society going to acknowledge that historically men who have been in positions of power over women have misused this and have committed morally reprehensible acts and recognize that it is not so far fetched that this phenomenon might still be prevalent. Wilful blindness to the unfortunate realities of life through the refusal to authenticate the experiences of certain groups in society works only to further reinforce the existing injustices these groups must already face.

OF HYPOCRISY AND SELF INTEREST

By Tom Likambale, LLB II

Canadian Prime Minister Brian Mulroney crusaded in vain to elevate the subject of Human Rights to the top of the agenda at the just ended Harare Commonwealth Summit. In particular, his view was to make economic assistance of poorer member countries by their richer counterparts contingent on the recipient country's record on human rights. Mulroney's efforts did not receive much fanfare at the summit. Some powerful lobbying and clever political footwork by the poorer members of the multi-nation gathering succeeded in relegating the issue to near insignificance to the extend that the final communique of the summit only reflected a watered-down resolution to «promote» democracy and respect for human rights in member countries. The writer suggests that this was an unfortunate outcome in the circumstances and that the Canadian Prime Minister's view deserved more seriousn consideration.

The abuse of human rights has established itself as a staple in the diet of survival among some of the regimes that rule poorer members of the (formerly British) Commonwealth. One-party states have mushroomed in some African member states of the club and military regimes have routinely risen and fallen in others. Universal franchise is either a thing of the past in these states or is a rarely enjoyed-luxury, donated at the will and convinience of some socalled «benovelent» dictator. The extermination of political opponents through summary execution, death squads and torture have become routine in too many of the states in question. Until recently, Zimbabwe's own Robert Mugabe was openly seeking the advice of the older, absolute rulers on how to establish and entrench a similar state of affairs in Harare. It is no surprise therefore that Mugabe, host of this year's summit, was at the frontline of the fight to defeat the Mulroney initiative. At a joint news conference with Mulroney, Mugabe pointedly declared, «Money cannot buy values», displaying his penchant for the catchy and pregnant phrase. This dismissive treatment of the subject of human rights suggests that some members of that group have every stubborn intention of continuing to abuse human rights as long as that assures their political survival.

And yet this stands in sharp contrast to the stand taken at previous summits by most of these same leaders (yes, especially Mugabe) when the hot topic of the day was the human rights abuses taking place in South Africa in the form and under the guise of the policy of apartheid (no suggestion is being made here that apartheid is exactly the same kind of oppression as goes on in these other countries, only that it is a form of oppression and as such is equally and similarly deplorable). In that instance, many African Commonwealth countries rallied behind Mulroney in what then seemed his epic ideological battle against his then arch-nemesis (only on this issue) Maggie Thatcher (alias The Milk Snatcher) of the U.K. The question to impose was whether or not to impose economic sanctions against the racist government of the Republic of South Africa. Mulroney won accolades from many African leaders for his stand and was held up to others as an example of what a friend looks like (I shudder, I admit, but look at this only in this context, please).

Foreign aid from the West is vital in the survival of most of these regimes. Although the argument is often heard that this aid helps the people of these states and its removal would hurt the man in the street, the reality is that the so-called man in the street rarely benefits from this largesse, as it is mostly spent on projects that are aimed to prop up these regimes. In fact, some of these regimes hold up Western aid as an illustration to their own populations that the West approves of them as a regime and supports their brand of politics. Standards with which we treat human rights abuses should not alter according to whether and how much we are involved ourselves in the process, as Mugabe et al seem to be functioning. Oppression is oppression is oppression. Whether it is apartheid or Daniel arap Moi (of Kenya) likening multi-party democracy to tribalism, it is oppression; whether it is the barring of alternative political activity in Tanzania, it is oppression; whether it is Kenneth Kaunda of Zambia conning the parliament of his one-party state to draft legislation to provide for a luxury presidential retirement at the tax-payer's expense in anticipation of his being forced out of power, it is oppression; whether it is the floating dead bodies of dissidents in the rivers of Africa as «food for crocodiles» (as was characterized by one African dictator); it is oppression. And so if and when the international community decides to intervene in oppressive countries like these, «money cannot buy values» should not be allowed to be a defence in the same way that it was not a defence when the Commonwealth rightly imposed sanctions against the racist and expansionist thugs of the Apartheid Republic further to the south of the African Motherland.